

ACUPUNCTURE LICENSING ACT

Part 1 - General Provisions

58-72-101. Title.

This chapter shall be known as the "Acupuncture Licensing Act."

58-72-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

- (1) "Board" means the Acupuncture Licensing Board created in Section 58-72-201.
- (2) "Licensed acupuncturist," designated as "L.Ac.," means a person who has been licensed under this chapter to practice acupuncture.
- (3) "Moxibustion" means a heat therapy that uses the herb moxa to heat acupuncture points of the body.
- (4)
 - (a) "Practice of acupuncture" means the insertion of acupuncture needles and application of moxibustion to specific areas of the body based on traditional oriental medical diagnosis and concepts as a primary mode of therapy.
 - (b) Adjunctive therapies within the scope of acupuncture may include:
 - (i) manual, mechanical, thermal, electrical, light, and electromagnetic treatments based on traditional oriental medical diagnosis and concepts;
 - (ii) the recommendation of dietary guidelines, herbs, supplements, and therapeutic exercise based on traditional oriental medical diagnosis and concepts according to practitioner training;
 - (iii) the practice described in Subsection (4) (a) and (b) on an animal to the extent permitted by:
 - (A) Subsection 58-28-307(12);
 - (B) the provisions of this chapter; and
 - (C) division rule.
 - (c) "Practice of acupuncture" does not include:
 - (i) the manual manipulation or adjustment of the joints of the body beyond the elastic barrier; or
 - (ii) the "manipulation of the articulation of the spinal column" as defined in Section 58-73-102.
- (5) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-72-503, and as may be further defined by rule.

Part 2 - Board

58-72-201. Acupuncture Licensing Board.

- (1) There is created an Acupuncture Licensing Board consisting of:
 - (a) two licensed acupuncturists;
 - (b) one physician with knowledge of and experience in acupuncture;
 - (c) one other licensed health care practitioner with knowledge of and experience in acupuncture; and
 - (d) one member from the general public.
- (2) The board shall be appointed and serve in accordance with Section 58-1-201.
- (3)
 - (a) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 and 58-1-203.
 - (b) In addition, the board shall designate one of its members on a permanent rotating basis to:
 - (i) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and
 - (ii) advise the division in its investigation of these complaints.

- (4) A board member who has, under Subsection (3), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

Part 3 - Licensure

58-72-301. License required - License classification.

- (1) A license is required to engage in the practice of acupuncture, except as specifically provided in Section 58-1-307 or 58-72-304.
- (2) The division shall issue to a person who qualifies under this chapter a license in the classification of licensed acupuncturist.

58-72-302. Qualification for licensure.

Notwithstanding Section 58-1-302, an applicant for licensure as a licensed acupuncturist shall:

- (1) submit an application in a form prescribed by the division;
- (2) pay a fee determined by the department under Section 63J-1-303;
- (3) be of good moral character;
- (4) meet the requirements for current active certification in acupuncture under guidelines established by the National Commission for the Certification of Acupuncture and Oriental Medicine (NCCAOM) as demonstrated through a current certificate or other appropriate documentation;
- (5) pass the examination required by the division by rule;
- (6) establish procedures, as defined by rule, which shall enable patients to give informed consent to treatment; and
- (7) meet with the board, if requested, for the purpose of evaluating the applicant's qualifications for licensure.

58-72-303. Terms of license - Expiration - Renewal.

- (1)
 - (a) Each license issued under this chapter shall be issued in accordance with a two-year renewal cycle established by rule.
 - (b) A renewal period may be extended or shortened by as much as one year to maintain established renewal cycles or to change an established renewal cycle.
- (2) Each license automatically expires on the expiration date shown in the license unless renewed by the licensee in accordance with Section 58-1-308.
- (3) Renewal qualifications shall include:
 - (a) either documentation of current and active NCCAOM certification; or
 - (b) meeting the same professional development requirements as those licensed under this chapter.

58-72-304. Exceptions from licensure.

In addition to the exemption from licensure set forth in Section 58-1-307, the following persons may engage in the practice of acupuncture subject to the stated circumstances and limitations without being licensed under this chapter:

- (1) an individual licensed as a physician and surgeon or osteopathic physician and surgeon under Chapter 67, Utah Medical Practice Act, and Chapter 68, Utah Osteopathic Medical Practice Act;
- (2) a commissioned physician or surgeon serving in the armed forces of the United States or other federal agency; and
- (3) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act. A chiropractic physician may not claim to be a licensed

Part 4 - License Denial and Discipline

58-72-401. Grounds for denial of license - Disciplinary proceedings - Resumption of practice.

Grounds for refusal to issue a license to an applicant, for refusal to renew the license of a licensee, to revoke, suspend, restrict, or place on probation the license of a licensee, to issue a public or private reprimand to a licensee, and to issue cease and desist orders shall be in accordance with Section 58-1-401.

Part 5 - Unlawful and Unprofessional Conduct - Penalties

58-72-501. Acupuncture licensee - Restriction on titles used.

- (1) (a) A person practicing as a licensed acupuncturist may not display or in any way use any title, words, or insignia in conjunction with the person's name or practice except the words "licensed acupuncturist" or "L.Ac.".
- (b) When used in conjunction with the person's practice the term "licensed acupuncturist" or "L.Ac." shall be displayed next to the name of the licensed acupuncturist.
- (2) (a) A licensed acupuncturist may not use the term "physician," "physician or surgeon," or "doctor" in conjunction with the acupuncturist's name or practice. "Doctor of acupuncture" or "oriental medical doctor" may be used if the term is commensurate with the degree in acupuncture received by the practitioner.
- (3) Medical doctors or chiropractic physicians who choose to practice acupuncture shall represent themselves as medical doctors or chiropractic physicians practicing acupuncture and not as licensed acupuncturists.

58-72-502. Penalty for unlawful conduct.

- (1) Any person who violates the unlawful conduct provision defined in Subsection 58-1-501(1)(a) is guilty of a third degree felony.
- (2) Any person who violates any of the unlawful conduct provisions defined in Subsections 58-1-501(1)(b) through (e) is guilty of a class A misdemeanor.

58-72-503. Unprofessional conduct.

Unprofessional conduct includes the failure to transmit records in the English language to the division, the patient's practitioner, or a third party insurance payor upon request.

Part 6 - Acupuncturist Practice - Insurance Payments

58-72-601. Acupuncture license not authorizing medical practice - Insurance payments.

Nothing in this chapter may be construed to permit the practice of medicine nor require direct payment from third party insurers directly to a person engaged in the practice of acupuncture.

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